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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 3 February 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

later: Mr. BROTODININGRAT (Indonesia)

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The meeting was called to order at 3.45 p.m.

STATEMENT THE MINISTER FOR FOREIGN AFFAIRS OF DENMARK

1. The CHAIRMAN invited the Minister for Foreign Affairs of Denmark to address the Commission.

2. Mr. PETERSEN (Denmark), speaking on behalf of the European Community and its member States, said that respect for, and the promotion and protection of, human rights was a cornerstone of European cooperation and an important aspect of the relations between the Community and other countries.

3. Many of the international legal instruments adopted in the field of human rights had emerged from the deliberations of the Commission on Human Rights, and the implementation of those instruments was a matter of priority to the Community and its member States, which believed human rights to be universal and indivisible, whether they were civil, political, economic, social or cultural.

4. They refused to accept that any country could in te sovereignty as a shield in order to carry out violations of human righ on the contrary, they believed that the safeguarding of human rights and fundamental freedoms was an urgent duty of the international community and of individual States. Respect for human rights, the rule of law and effective democratic institutions were basic premises for improving the well-being of the individual through the process of development, and the Community and its member States therefore actively supported the consolidation of human rights and democracy as an integral part of wider development cooperation programmes.

5. In the countries of Central and Eastern Europe, and in a number of developing countries also, particularly in Africa, recent developments had clearly demonstrated the strength of movements aimed at achieving democratic reform, and the Community and its member States welcomed the results already achieved. However, experience had demonstrated that the transition to democracy was not always a straightforward process, and that assistance in holding elections could help to overcome the difficulties encountered.

6. The Community and its member States thus actively supported the trend towards democratization throughout the world, for example in relation to the conduct of free and fair elections, the strengthening of the rule of law and of the judiciary and the administration of justice, and the promotion of a civil society. Human rights were regularly addressed in cooperation agreements between the Community and third countries, and specific issues concerning human rights were discussed at consultative meetings.

7. The resolution adopted by the Council of the European Community in November 1991 on human rights, democracy and development laid down the basic policy in that regard, expressing its commitment to establish a solid ground for popular participation in national development. The Community and its member States would continue to support all efforts to advance human rights and democracy, and would consider appropriate responses whenever those principles were seriously or persistently violated.

8. The overall situation with regard to human rights, however, still gave cause for concern, since the impressive catalogue of existing human rights standards had yet to be reflected in the daily lives of millions of people throughout the world. Moreover, new-found freedom and extreme nationalism had combined to release waves of racism and xenophobia which had led to political violence in many countries, in Europe as well as in other regions of the world.

9. In particular, the international community unreservedly condemned the flagrant and continuing violation of basic rights and humanitarian law in the former Yugoslavia: it could not acquiesce in the results of the policy and practice of "ethnic cleansing", for which the Serbian authorities bore the prime responsibility. In that connection, he recalled that the General Assembly, at its most recent session, had strongly rejected policies and ideologies aimed at promoting racial hatred and "ethnic cleansing" in any form.

10. The Community and its member States had given full support to the appointment of the Special Rapporteur, Mr. Mazowiecki, and were deeply appreciative of his dedicated endeavours to carry out his responsibilities. They fully endorsed his recommendations. Unfortunately, the Special Rapporteur's report concerning massive and grave violations of human rights in Bosnia and Herzegovina did not prevent those violations from continuing. It had, however, clearly established the facts in the face of war propaganda and lies and called for further action. Pretended ignorance of the situation was no longer possible.

11. The Community also attached great importance to the work of the mission it had dispatched to investigate the treatment of Muslim women in the former Yugoslavia. The report of that mission, undertaken in December 1992 and January 1993, had recently been endorsed and published by the Council of Ministers of the Community.

12. The Community and its member States also strongly supported Security Council resolution 780 (1992) on war crimes in the former Yugoslavia, and welcomed the appointment of a Commission of Experts to assist the Secretary-General in the collation, analysis and investigation of evidence. The perpetrators of mass killings and other grave breaches of international humanitarian law must be held individually responsible for their actions. The Community and its member States would continue to cooperate with the United Nations and the relevant bodies in ensuring that justice was done. They also welcomed and supported the missions undertaken by the Rapporteur of the Conference on Security and Cooperation in Europe (CSCE) to investigate detention centres throughout the former Yugoslavia and attacks on civilians in Bosnia and Croatia.

13. In that connection, the Commission on Human Rights was to be commended on having responded clearly and promptly to the grave and massive violations of human rights, particularly in Bosnia and Herzegovina. The two special sessions of the Commission in 1992 had strengthened its credibility as an operational forum in the field of human rights, thereby enhancing the image of the United Nations as a whole.

14. The Commission's current session would provide an opportunity for monitoring compliance with the established norms and for elaborating, if possible, further mechanisms which would contribute to an improvement in the observance of human rights. In that endeavour, the participation of political leaders, on the one hand, and of human rights defenders and non-governmental organizations on the other, was essential.

15. The Commission's fact-finding activities and the recommendations of its special rapporteurs, special representatives and working groups were an integral and invaluable element in fulfilling the Commission's role of monitoring compliance with internationally accepted human rights standards. A precondition for the proper functioning of those mechanisms was the cooperation of Governments. While signs of progress in that regard were to be welcomed, it was regrettable that a number of Governments continued to withhold full cooperation, and the Community and its member States urged all Governments to provide whatever information was requested, to facilitate visits to their countries, and to give adequate follow-up to urgent appeals.

16. The Community and its member States would promote the extension of special rapporteurs' mandates to the extent that that was merited by the human rights situation in the country concerned. In that connection, they welcomed the rapid confirmation at the recent special session of the Commission of the mandate of Mr. Mazowiecki, and expressed the hope that similar mandates could be as promptly confirmed in future.

17. Another invaluable contribution was made by the thematic rapporteurs and working groups. By virtue of the global nature of their mandates and the integrity with which they had carried out their tasks, they had become an indispensable part of the Commission's work to promote and protect human rights. The Community and its member States therefore welcomed the Commission's decision to extend the relevant mandates for a further three-year period. They would also continue to support the mechanism for holding special sessions of the Commission when events so required.

18. The Community and its member States had always greatly valued the advisory services and the technical assistance programme, which constituted both a potential preventive mechanism and a means of assisting countries in the transition to democracy and the rule of law. However, consideration of country situations under the programme was not adequate in cases of gross and systematic violations of human rights. They noted that there had been a significant increase in requests for assistance - a welcome development - and hoped that the Centre for Human Rights would respond positively to those requests. Practical counselling and problem-oriented assistance should be the main focus of the programme. At the same time, more supervision of the policy and management of the Voluntary Fund was needed.

19. A key role was played by the Centre for Human Rights, but the Centre was facing a critical situation with regard to its ability to fulfil its functions, since its resources in terms of finance, staff and accommodation had not kept pace with its increasing workload. The Community and its member States would continue to monitor that issue actively, in the light of the relevant resolutions adopted by the General Assembly.

20. The Community and its member States welcomed the fact that the General Assembly had proclaimed 1993 as the International Year for the World's Indigenous People. It was a regrettable fact that many indigenous people were unable to enjoy their fundamental human rights and freedoms, and the International Year would help to focus on their specific situations and needs. It was greatly to be hoped that the International Year would promote genuine partnership in the interests of justice, democracy and equality, as well as a general international awareness of the conditions of those peoples.

21. The Community and its member States were very pleased that the General Assembly had approved by consensus the agenda for the World Conference on Human Rights, and that the agenda provided the organizational framework for a global discussion on the full realization of human rights at the universal level, on progress made, and on the obstacles encountered and the challenges ahead.

22. They continued to believe that the World Conference, together with the preparatory regional conferences, offered an important opportunity for the international community to confirm the universality of human rights and to pursue a constructive dialogue on ways and means of improving their implementation. They remained committed to a successful outcome of the Conference and would work for consensus on a balanced final document. In that regard, particular emphasis would be given to the linkages between human rights, development and democracy and to the need for a concentrated assistance effort in that area.

23. The principal goal towards which the World Conference should strive was the full implementation of existing human rights standards, and it was to be hoped that a spirit of cooperation would prevail in order to ensure that respect for human rights became a reality of daily life. Much constructive work had been done in the years since the adoption of the Universal Declaration of Human Rights, and the task ahead was to transform its provisions into practical realities.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1993/3, 6, 9, 12, 13, 70-74 and 81; A/47/76, 262 and 509; S/25149)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1993/17, 18 and 19 and Add.1; E/CN.4/1992/12; A/47/412)

24. Mr. OSDEN (Centre Europe-Tiers Monde), speaking also on behalf of the Association for Union between the Jewish and Palestinian Peoples, said that, in the four months of its existence, the current Israeli Government had disappointed hopes by violating human rights and intensifying repression in the occupied Arab territories. The recent large-scale deportations represented a significant upward spiral in that repression as well as a blatant provocation at a time when the peace process was under way. They had been carried out in contravention not only of the Geneva Convention Relative

to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) - of which Israel was a signatory, although it refused to apply the Convention in the occupied territories, but also of Israeli domestic legislation.

25. Moreover, the 415 deportees were being kept in harsh conditions in an improvised encampment in the desert: indeed, they had even been denied assistance from the International Committee of the Red Cross (ICRC) until 7 January 1993, when the Israeli Government had been forced by the pressure of world opinion to allow a doctor and an ICRC delegate to visit them.

26. At a time when tensions were being inflamed by the illegal and brutal measures adopted in the occupied territories to suppress demonstrations of solidarity with the deportees, the Israeli Government sought to appease international indignation, and opposition within Israel itself, by a series of concessions.

27. It should be emphasized, however, that the deportations were merely the latest challenge to international law perpetrated by the Israeli authorities - with the acquiescence of the Government of the United States - in defiance of United Nations resolutions: since the Arab territories had been occupied in 1967, some 1,600 Palestinians had been deported, the underlying aim being to tilt the demographic balance in favour of the Jewish population. If the international community failed to halt the deportation of 415 Palestinians, there appeared to be nothing to prevent the eventual deportation of 400,000.

28. To put an end to the policy of exclusion and ethnic cleansing, which posed a threat to peace in the Middle East and the world at large, there were a number of steps to be taken: firstly, all the deportees must be repatriated immediately; secondly, their safety must be guaranteed once repatriated; thirdly, Lebanon's independence, sovereignty and territorial integrity must be respected; fourthly, pressure must be exerted to compel Israel to ratify the Fourth Geneva Convention and to implement it in the territories it had occupied since 1967, including Jerusalem; and finally, the Security Council should assert its independence by applying immediate sanctions against the State of Israel.

29. Mr. HUSSEIN (Pakistan) said that, having itself achieved independence through the exercise of the right to self-determination, Pakistan considered itself duty-bound to extend its support to peoples suffering under colonial or alien domination so as to enable them to exercise that same right. It was a tragedy that the right to self-determination had not been realized in some cases where it had been explicitly promised. Palestine, South Africa and Kashmir were three glaring examples.

30. When the United Kingdom had liquidated its empire in South Asia, the question of the transfer of power had been settled through elections. The National Congress Party had won the overwhelming majority of the votes in Hindu areas and the Muslim League Party in Muslim areas. Accordingly, through a tripartite agreement concluded by the United Kingdom, the Congress and the League, British India had been partitioned between the two successor States of

India and Pakistan. In any case where there was any element of doubt as to whether the people of a territory wanted to be included in India or in Pakistan, the matter had been decided through a plebiscite.

31. The Kashmir dispute stemmed from the fact that India had refused to abide by that cardinal principle and had instead launched a full-scale military operation in Jammu and Kashmir to seize the territory by force. The Indian military offensive had met with the resistance of the people, and India itself had brought the issue before the Security Council on 1 January 1948, maintaining that Pakistan had been responsible for the disturbances.

32. The Security Council had not endorsed that contention; instead it had adopted a number of resolutions calling for the question of accession to be decided through a plebiscite. In 1948, the Security Council had established the United Nations Commission for India and Pakistan (UNCIP), which had adopted a resolution on 13 August of that year, on the basis of proposals accepted by both Governments, and another resolution on 5 January 1949, which had again reaffirmed the right to self-determination of the people of Kashmir.

33. Those resolutions continued to be valid, and the parties to the dispute, India and Pakistan, were both bound by them. India's assertion that the people of Jammu and Kashmir had already exercised its right to self-determination by taking part in the sham elections that India had staged from time to time under the watchful eye of its army was in contradiction with Security Council resolutions 91 (1951) and 122 (1957).

34. The latter resolution specifically stated that "the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations" and that any "attempt to ... determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action ... would not constitute a disposition of the State in accordance with the above principle". The fact that less than 5 per cent of the people had taken part in the 1989 elections organized by India was a clear demonstration of India's attempt to use the so-called elections to justify occupation of the territory by force and to renege on its pledge to hold the plebiscite.

35. Having waited for over 45 years for the international community to make good on its pledge to hold a plebiscite, in January 1990 the people of Jammu and Kashmir had risen in revolt, a widespread, spontaneous, indigenous and popular uprising. In response, the Indian security forces had launched a bloody campaign to crush the popular Kashmiri movement for self-determination. Thousands had been killed, imprisoned and tortured, and many more tens of thousands had been subjected to degrading treatment.

36. Indian occupation troops - currently more than 400,000 in the territory - were indulging in indiscriminate killings and widespread arson. The recent bloody incident of 6 January 1993 in Sopur was a case in point: as recorded in the world media, more than 50 Kashmiris had been killed and several hundred houses and shops gutted in an unprecedented escalation of the genocidal practices of the Indian occupation forces.

37. To justify its illegal occupation, India had been portraying Kashmir as an integral part of India, thereby implying that a plebiscite would be superfluous. Having failed to convince the United Nations, which considered Kashmir to be a disputed territory, India was seeking to divert attention away from its brutal repression by accusing Pakistan of responsibility for instigating the unrest. His Government had always maintained however, that the only way to arrive at an objective analysis of the situation was to send an independent fact-finding mission to the area, and it wondered why India had repeatedly rejected such a proposal.

38. His delegation remained committed to a peaceful settlement of the Kashmir dispute in accordance with the relevant resolutions of the Security Council and in the spirit of the Simla Agreement.

39. Mr. CHANDRA (India), speaking in exercise of the right of reply, said that, in fact, the legal validity of the accession of Jammu and Kashmir to India, which had enjoyed overwhelming popular support, had never been called into question. Faced with Pakistan-supported raids on Jammu and Kashmir, India had, on 1 January 1948, brought the situation before the Security Council requesting Pakistan to put an immediate end to its assistance to such actions, which constituted an aggression against India.

40. Despite its well-justified position on Kashmir and despite Pakistan's aggression, India had accepted the resolutions of the United Nations Commission on India and Pakistan (UNCIP) of 1948 and 1949 which - as the representative of Pakistan had failed to mention - called for a cease-fire, an end to aggression by Pakistan and a plebiscite. The holding of a plebiscite had been conditional upon Pakistan halting its aggression. However, knowing full well what the result would be, the Government of Pakistan had prevented the plebiscite from being held by refusing to halt its aggression.

41. Then, in 1951, the people of Jammu and Kashmir had convened a Constituent Assembly which, in 1956, had reaffirmed the accession of Jammu and Kashmir to the State of India and had finalized its Constitution, which set forth that the State was and would remain an integral part of the Union of India. The people of Jammu and Kashmir had since participated in elections on several occasions and had returned freely elected Governments to office. It was thus evident that Jammu and Kashmir had democratically chosen to accede to India. There was no bar on visits to Jammu and Kashmir by private individuals, journalists, members of the diplomatic community, and so forth.

42. The current situation in Kashmir was the result of Pakistan's support of religion-based terrorism aimed at unilaterally altering the status quo and undermining India's secular fabric. Applying the principle of self-determination to constituent units of sovereign States constituted an attack upon the very root of the territorial integrity of nations and the international order. Self-determination was inapplicable to the integral parts of sovereign independent States.

43. The difficulties that had arisen with respect to the full enjoyment of human rights in Jammu and Kashmir were of Pakistan's making. Pakistan was largely responsible for engineering terrorist violence and secessionist activities in Jammu and Kashmir, providing training in sabotage and the use of

sophisticated weapons through a network of specially organized camps and making available financial assistance, arms and guidance to terrorists operating there.

44. The threat to human rights came from terrorists and those who supported them. Pakistan had emerged as the single most important base for terrorism and narco-terrorism on the subcontinent.

45. Much had been made by the delegation of Pakistan of India's heavy hand in Kashmir. However, the Indian police and security forces, faced with ruthless terrorism, had taken great pains to protect the lives of innocent men, women and children. While it was the fundamental responsibility of the Government to maintain law and order so that citizens were able to enjoy their fundamental human rights, that was being done with the maximum restraint. Any special legislation enacted specifically to deal with terrorist offences had taken scrupulous care to ensure that traditional safeguards were included. Constitutional guarantees and laws ensured speedy investigation and redress in cases where mistakes were made. However, the majority of cases, when investigated, were found to be false, motivated or exaggerated, and usually turned out to be acts of terrorists themselves aimed at defaming the security forces and turning the local people against them.

46. Mr. HUSSEIN (Pakistan), speaking in exercise of the right of reply, said he would like to ask the representative of India whether he was saying that the United Nations was wrong in declaring Jammu and Kashmir to be a disputed territory; whether he was suggesting that the international community must acquiesce in India's occupation of Kashmir in violation of United Nations resolutions; whether he expected the Commission on Human Rights to take no action despite India's violation of the Charter of the United Nations and, the relevant United Nations resolutions and human rights abuses it had committed; and why India refused to allow the Commission to send a fact-finding mission to Kashmir to investigate allegations of human rights violations by the Indian army in occupied Kashmir.

47. Mr. CHANDRA (India), speaking in exercise of the right of reply, said that the representative of Pakistan was quoting United Nations resolutions selectively in order to make his case, conveniently forgetting that Pakistan itself had prevented the plebiscite from being held in Jammu and Kashmir and that it had used force to alter the status quo in violation of the Security Council resolutions. The most recent resolution on the subject (122 (1957)) had called on both sides to avoid statements and actions which might aggravate the situation, but Pakistan had violated that resolution by instigating wars in 1965 and 1971, and was currently doing so again through its support for terrorism.

48. In any case, conditions had changed appreciably over the last 40 years and the solutions previously proposed were no longer relevant. Jammu and Kashmir was an integral part of India and the country's unity and sovereignty could not be questioned. The only question to be settled was that of Pakistan's aggression and support for terrorism, which were in violation of the provisions of the Simla Agreement of 1972, which required all differences to be resolved bilaterally and peacefully.

49. Mr. CHARIF (Pakistan) speaking in exercise of the right of reply, said that the representative of India had failed to respond to his delegation's proposal that a neutral international fact-finding mission should be allowed to visit Jammu and Kashmir in order to examine the situation for itself. He urged the Commission to support the establishment of such a mission.

50. Mr. PARK (Republic of Korea) said that, at a time when horrendous human rights violations were occurring in many parts of the world, the Commission was called upon to play a more active and important role in addressing human rights issues. As a new member of the Commission, his delegation was prepared to meet its responsibilities and would do its best to contribute to the Commission's work, in close cooperation with other delegations and with the Centre for Human Rights.

51. Although the change of Government in Israel in June 1992, and the new Government's pledge to curtail the building of settlements in the occupied territories had improved the prospects for peace talks, the Commission was still receiving many reports of human rights violations in the occupied territories, including summary executions, torture and inhuman treatment, the use of excessive force against demonstrators and various forms of collective punishment. He was particularly concerned at the serious armed violence that had occurred in December 1992 and at the subsequent deportation of more than 400 Palestinians, who were attempting to survive in a no man's land without the basic necessities of life.

52. In addition to violating international humanitarian laws and principles, the deportations would adversely affect the ongoing Middle East peace process, and he sincerely hoped that the human rights of the deportees would be guaranteed and that they would be safely repatriated as soon as possible in accordance with Security Council resolution 799 (1992).

53. The question of human rights violations in the occupied territories was closely linked to the negotiations to achieve a lasting peace in the Middle East, and he reiterated his delegation's support for a political settlement based on the relevant United Nations resolutions, particularly Security Council resolutions 242 (1967) and 338 (1973).

54. Full respect for and realization of the inalienable rights of the Palestinian people, as recognized by the United Nations, including the right to self-determination and the right to national independence and sovereignty, were indispensable if a solution to the problem was to be found. He also wished to emphasize that the Fourth Geneva Convention was fully applicable to the occupied territories.

55. Violence and terror from whatever source were a serious impediment to the success of the peace talks and his delegation appealed to the parties concerned to refrain from such actions. Lastly, he ardently hoped that a comprehensive, just and lasting settlement to the Arab-Israeli conflict would be achieved through the Middle East peace process.

56. Mr. LANUS (Argentina) said that his delegation's view of human rights could be summed up in a number of points. The main responsibility for ensuring respect for human rights and punishing abuses lay with the

Governments and national communities, including the legal and educational systems, the churches, national non-governmental organizations and so forth. The international community had a complementary role to play in monitoring, investigating and, where appropriate, condemning proven violations of human rights. The international organizations and institutions established for that purpose must carry out their duties in a strict and impartial way.

57. International cooperation and assistance to promote respect for human rights was an ongoing task involving a collective commitment from which no one should feel excluded, whatever his or her national traditions or cultural and social practices. Such differences must not be allowed to serve as a pretext for assaults on the life, dignity and freedom of human beings. His Government was receptive to all proposals aimed at improving the efficiency of machinery to enable the international community to discharge fully its responsibilities in the human rights field.

58. Despite the favourable impact of the Madrid Conference, Israeli practices in the occupied Arab territories had been noted and condemned by the international community as violations of the Universal Declaration of Human Rights, international human rights instruments and international humanitarian law. A just and lasting solution to the Palestinian conflict must start from the full application of Security Council resolutions 242 (1967) and 338 (1973) and the peace process initiated in Madrid on 30 October 1991. In addition, the Israeli Government must comply with Security Council resolution 799 (1992) requiring the immediate return of the 415 deported Palestinians, in order to prevent a new cycle of violence and repression from beginning.

59. His delegation welcomed the improved human rights situation in South Africa as evidenced by the lowering of tension and the rapid dismantlement of apartheid. It felt, nevertheless, that the international community must promote real democratic participation by all South African citizens in public life, through genuine freedom of speech and association and freedom of the press. Respect for the human rights of others, the rule of law and effective democratic institutions constituted the cornerstone on which a new order of peaceful coexistence must be built, in South Africa or anywhere else in the world.

60. Mr. LEMINE (Mauritania) said that, despite the hopes for a just and lasting settlement of the Palestinian question raised by the arrival in power of a new Israeli Government, the situation in Palestine and the other occupied territories was still deteriorating and Israel continued to pursue a policy of brutal repression in total disregard of the international condemnation provoked by its actions. Israel's sole aim appeared to be to consolidate and render permanent its occupation in complete disregard of human rights or international law.

61. Since the beginning of the intifada, more than a thousand Palestinians had been killed by Israeli forces and thousands of others injured or interned. Quite recently, in an act of singular inhumanity, Israel had expelled more than 400 Palestinians, in violation of the provisions of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War

(Fourth Geneva Convention) and of numerous Security Council resolutions. At the same time, it was violating the sovereignty and territorial integrity of Lebanon in violation of the United Nations Charter and the principles of international law.

62. Although it owed its own existence to a United Nations resolution, Israel had, from the outset, based its actions on non-compliance with such resolutions, and its response to Security Council resolution 799 (1992) was no exception.

63. Israel was directly responsible for the inhuman conditions in which the 400 Palestinians were living and which was unfortunately only one episode in its continued repression of the inhabitants in the occupied territories. By its behaviour, Israel was seriously endangering the peace process and the security and stability of the entire region.

64. The continuation of the paradox of the undue suffering of the Palestinian people and the considerable indulgence shown Israel was an affront to human dignity and constituted contempt for international legality. That was the reason why the Arabs and all other peace-loving peoples believed that international law and United Nations resolutions did not apply to Israel. The international community had a duty to put an end to that anomaly and to see to it that Israel respected its international obligations.

65. The Palestinians, who were entitled to the protection of the Fourth Geneva Convention, had to be reinstated in all their rights, in particular the right to independence and to the establishment of their own State, with Jerusalem as its capital.

66. Mr. Brotodiningrat (Indonesia) took the Chair.

67. Mr. CHANDRA (India) said that the only way in which extended peace could come to the Middle East was through a just and lasting settlement of the question of Palestine which was acceptable to all the parties concerned and took into full account the legitimate rights and aspirations of the Palestinian people. Continuation of the dialogue initiated by the Middle East peace process was of crucial significance for the broad issues of international peace and security. The United Nations had an important role to play in the peace efforts in the region, and all parties to the negotiations should participate on an equal footing.

68. The General Assembly and the Commission had consistently condemned the violations of the human rights of the civilian population of the occupied Arab territories. The right of the Palestinians to a homeland had also been consistently reaffirmed by those organs. Occupation had led, in its turn, to the imposition of alien laws, jurisdiction and administration and the establishment of Israeli settlements had resulted in demographic, cultural and social changes which denied the means of development to the Arab inhabitants. Collective punishment, evacuation, expulsion and deportation had been imposed and in many cases the right to return had been denied.

69. The recent expulsion of a group of Palestinians had been condemned by Security Council resolution 799 (1992), which demanded the safe and immediate return of all those deported. In his Government's opinion, the key to the settlement of the problem of the deported Palestinians lay in the implementation of all the relevant decisions of the Security Council.

70. Similarly, the key to a just, lasting and comprehensive settlement in the Middle East was recognition of the inalienable rights of the Palestinian people, including the right to its homeland, as well as the right of all States in the region, including Palestine and Israel, to live in peace within internationally recognized boundaries. Such a settlement was the only way to ensure social and economic progress in the region.

71. His Government, which had consistently supported the restoration of the inalienable rights of the Palestinian people and the establishment of lasting peace in the region, believed that, since United Nations resolutions had served as the terms of reference for the Madrid Conference, the Organization should assume a role in the peace negotiations.

72. Mr. MACRIS (Cyprus) said that, despite the ongoing Arab-Israeli peace talks which were a source of hope in the quest for a viable solution to the Arab-Israeli problem, the world had not yet noticed any tangible improvement in the human rights situation. The lengthy list of gross violations of human rights in the occupied Arab territories, including Palestine, was an additional tragic reminder of the fact that military occupation led to a negation of all human rights and fundamental freedoms.

73. At a time when the ideals of democracy and respect for human rights and fundamental freedoms had become pillars of international relations, the practices of the occupying forces in the occupied Arab territories were unacceptable by any standards.

74. Severe repressive measures caused grave concern both because they constituted gross human rights violations and because they endangered future relations between the peoples of the region. Attention should also be drawn to the grave breaches of the Fourth Geneva Convention, which was applicable to all Palestinian and Arab territories, including Jerusalem.

75. It was his Government's firm belief that no political or security considerations could be invoked or indeed be permitted to serve as a pretext for any policies and practices which constituted flagrant violations of the internationally accepted standards of human rights. The application of such policies and practices against the civilian population of the occupied Arab territories must cease, not only for humanitarian reasons but also in order to create a constructive environment for the successful outcome of the peace process.

76. It was in that general context that his Government had condemned the Israeli attitude towards the 400 Palestinians expelled from Israel and demanded their return to their homes in safety. His Government had thus requested the Secretary-General to take all the necessary steps to implement

Security Council resolution 799 (1992). Cyprus had always supported the just cause of the Palestinian people, under the leadership of the Palestine Liberation Organization, and its efforts to find a just and lasting peace in accordance with United Nations resolutions.

77. The necessary elements for the solution of the Middle East problem were the withdrawal of Israel from the occupied Arab territories, including Jerusalem; the exercise of the inalienable rights of the Palestinian people; and the political recognition of and guarantees for the right of all States in the region, including Israel, to live in peace within secure and recognized borders.

78. He reiterated his delegation's full support for the independence, sovereignty, territorial integrity and unity of Lebanon and for the total withdrawal of all Israeli forces from its territory. Similarly, the United Nations resolutions demanding the withdrawal of Israel from the Syrian Golan Heights should be implemented.

79. Mr. THUN (International Federation of Human Rights) said that he was a former prisoner of opinion who had been imprisoned for 9 months under the Khmer Rouge regime and for 17 months by the State of Cambodia.

80. The Paris agreements of 23 October 1991 guaranteed the Cambodian people the right to undertake activities protecting and promoting human rights and fundamental freedoms. For the first time in the history of Cambodia, Cambodians had been able, with the support and protection of the United Nations Transitional Authority in Cambodia (UNTAC), to organize and guarantee the enjoyment of human rights.

81. However, he wished to warn the Commission that Cambodia and the thousands of Cambodians fighting for the respect for human rights still needed the assistance of the international community. Otherwise, the present and the future of Cambodia would be endangered.

82. The situation in Cambodia remained extremely serious. Despite the valuable efforts of UNTAC and of various non-governmental organizations, serious violations of human rights continued to occur. Some elements had refused to disarm and take part in elections and the cease-fire had been violated. The Cambodians were once again witnessing an armed conflict, and UNTAC had not yet been able to ensure a neutral political environment for the elections. Political violence against the opposition parties was widespread, including summary executions, intimidation, and acts of harassment. Members of human rights defence organizations, including one affiliated to the International Federation, had been arrested. The International Federation thus believed that the situation in Cambodia should continue to be closely followed by the Commission, the General Assembly and the Security Council.

83. Noting that the Paris Agreements provided for the appointment of a Special Rapporteur by the Commission, he said that the Commission should put

that provision into effect at its current session, although that would not be sufficient in itself. Indeed, he urged the Commission to open a permanent office of the Centre for Human Rights in Cambodia.

84. While UNTAC had begun actively to lay the foundations for a state of law and the promotion of human rights, the establishment of a legal system incorporating the principles laid down by the Conventions ratified by Cambodia could not take place overnight. In the field of law, education and human rights training, Cambodia would continue to require technical and legal advice.

85. Moreover, the fledgling Cambodian non-governmental organizations were inexperienced and required firm support from the Centre for Human Rights.

86. Mr. WADLOW (International Fellowship of Reconciliation) said that his organization wished to raise the two related questions concerning self-determination. The first was how it was to be decided who had a right to self-determination when there was a dispute concerning the exercise of that right. The second was how humanitarian law was to be effectively enforced in conflicts which arose over the right to self-determination.

87. His delegation intended briefly to consider in that connection the examples of the former Yugoslavia, the Nagorno-Karabakh conflict, the conflict between Georgia and Abkhazia and the problem in Sri Lanka in order to underline the importance and difficulties of the issue. It would then turn to the need for a clearer policy regarding human rights in times of armed conflict.

88. With regard to the former Federation of Yugoslavia, from the beginning of its possible disintegration in 1989-1990, the question of who had the right to self-determination had been at the heart of the debate. The question was whether that right was limited to the constituent republics of the Federation, whether it applied also to the two autonomous areas of Serbia - Kosovo and Vojvodina - or whether it was the right of the six Slav nations which constituted the former State. The further, more general, question arose whether the right pertained to all minorities, such as the Sandzak Muslims in Serbia-Montenegro.

89. There was no authoritative body to decide those questions, which had been at the heart of the negotiations held at various venues since the beginning of the conflict. The International Court of Justice had no jurisdiction, as the dispute related to what had initially been a single State. The European Community had tried to draw up guidelines, but neither Yugoslavia nor any of its successor States belonged to the Community. Internal Yugoslav legislation was unclear, and the decisions of the Yugoslav Supreme Court were without effect. Consequently, although disputes might be settled by political compromises, there could be no judicial decision.

90. The question of the status of Nagorno-Karabakh and the resulting tensions between Armenia and Azerbaijan had first arisen in 1988 while both republics were still part of the Soviet Union. The International Court of Justice had thus been unable to act. Furthermore, Soviet institutions had been unable to pass authoritative and mutually acceptable judgements upon the dispute, and

violence had become increasingly common. The collapse of the former Soviet Union and the creation of separate independent States of Armenia and Azerbaijan had increased the violence and the tragedy.

91. It was almost a century since the first massacre of a quarter of a million Armenians had taken place in Anatolia, the first step along the road culminating in the systematic extermination of about one and a half million Armenians during the First World War. It should not be forgotten also that, soon after that systematic act of ethnic cleansing within the former Ottoman Empire, a further 20,000 Armenians had been killed in September 1918 by Azeri and Turkish troops outside the borders of the Ottoman Empire, in Baku. Adolf Hitler had subsequently asked the rhetorical question: "Who still talks nowadays of the extermination of the Armenians?"

92. The Georgia-Abkhazia dispute had first come up during the existence of the former Soviet Union but no agreed authoritative body had existed to rule on the nature of the treaties between republics and autonomous units. The end of the Soviet Union and the creation of Georgia as an independent State had not answered the questions whether autonomous units had the right to self-determination or concerning the degree of validity of treaties signed between Georgia and Abkhazia prior to their entry into the Soviet Union. That lack of authoritative judicial bodies had led to the use of force and there was currently a danger of violent explosions in the entire Caucasus region.

93. The conflict in Sri Lanka over questions of self-determination could be described in ethnic terms as a dispute between Tamils and Singhalese. The demand by some of the Tamil population for self-determination had been rejected by the Singhalese-led Government as not applicable within an independent unitary State. The Tamils had replied that they were a nation and had the right to create a State within international legality.

94. Once again, the International Court of Justice could not decide on the question and there was no authoritative national court which had the confidence of all parties. Violence had been widespread and efforts at mediation, including the dispatch of peace-keeping forces by India, had not resolved the issue.

95. Those four examples highlighted the need for authoritative and generally respected bodies to which disputes concerning self-determination could be brought. It was necessary to create such a body, either by expanding the jurisdiction of the International Court of Justice or by developing regional international courts or other decision-making bodies to which parties could turn with confidence.

96. The second related topic was the application of humanitarian law in conflicts arising from disputes over the right to self-determination. In each of the four cases cited, there had been increasing violence, displacement of people and economic blockades resulting in considerable suffering. Given the current inability to settle disputes regarding self-determination both equitably and authoritatively, the international community must find ways to

separate such constitutional disputes from the question of humanitarian aid and relief. In each of the four cases, human lives - often those of the most vulnerable sections of the population - were in danger.

97. The development of humanitarian law and its relation to other human rights would be an important topic at the forthcoming World Conference on Human Rights. The Commission could play an important role by dealing with the issue at its current session. As a first step, it should consider the adoption of a resolution on the free flow of humanitarian aid in the above-mentioned cases.

The meeting rose at 6.05 p.m.